

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/554,409
Applicant : Hans GRÖNLUND et al.
Filed : October 24, 2005
TC/A.U. :
Examiner :

Docket No. : 1768-139
Customer No. : 06449
Confirmation No. : 4548

REQUEST FOR WITHDRAWAL OF NOTIFICATION OF
ABANDONMENT UNDER MPEP §711.03(b)

Director of the United States Patent
and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants request that the Notification of Abandonment received for the subject patent application be withdrawn.

The Notification of Abandonment dated March 13, 2008, states that the Applicants had failed to respond to the Notification of Missing Requirements mailed on January 26, 2007. Applicants responded to the Notification of Missing Requirements on March 22, 2007. Applicants received a notification dated December 26, 2007, from the Legal Affairs Office of the Patent Cooperation Treatment Legal Administration referencing Applicants' March 22, 2007, response and stating that the Declaration filed on March 22, 2007, was non-sufficient and that, therefore, a new oath or declaration and petition was needed. This notice stated that a

response was required within two months but that extensions of time could be obtained under 37 CFR 1.136(a). Applicants are still within this extension period, and so the Notification of Abandonment was improper.

Applicants request that the Notification of Abandonment for failure to respond to the January 26, 2007, Notice be rescinded. Applicants include with this request (1) copies of the Transmittal, the Declaration and Power of Attorney from the March 22, 2007 response and the post marked postcard receipt of the filing and (2) the Notice from PCT Legal Affairs referencing the March 22, 2007 response.

Respectfully submitted,

By / Barbara G. Ernst /
Barbara G. Ernst
Attorney for Applicants
Registration No. 30,377
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 783-6040



UNITED STATES PATENT AND TRADEMARK OFFICE

26 DEC 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
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SUITE 800
WASHINGTON DC 20005

RECEIVED/FACILITIES
ROTHWELL FIGG ERNST & MANBECK
FILE NO.: 1768-0139
FACILITY: INT. *sp/jm*

COPY

In re Application of
GRONLUND
Application No.: 10/554,409
PCT No.: PCT/IB2004/001583
Int. Filing Date: 22 April 2004
Priority Date: 24 April 2003
Attorney's Docket No.: 1768-139
For: RECOMBINANT ALLERGEN

DOCKET ENTRY: _____
SEND TO: *B6E*
OK TO FILE: _____
NOTIFICATION

This notification is in response to applicants' submission filed 22 March 2007, which included, *inter alia*, a declaration of the inventors.

BACKGROUND

On 22 April 2004, applicants filed international application PCT/IB2004/001583 which designated the U.S. and claimed a priority date of 24 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 October 2005.

On 24 October 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee.

On 26 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h).

On 22 March 2007, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(h).

DISCUSSION

The declaration filed 22 March 2007 is not sufficient because it contains non-initialed alterations (page 2 of the declaration). 37 CFR 1.52(c). "The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." MPEP § 605.04(a). Item I.

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Additionally, the non-initialed alterations change the second inventor's name. Thus, even if the alterations were initialed and dated, the declaration of the inventor submitted 22 March 2007 would not comply with 37 CFR 1.497(a)-(b) because it would not list the correct inventorship. There would be a difference in names in the named inventor between the published international application (Marianne VAN HAGE-HAMSTEN) and the declaration of the inventor (Marianne VAN HAGE). Because this difference in names would be more than a mere typographical error, a transliteration error, or a phonetic misspelling of applicant's legal name, a proper petition under 37 CFR 1.182 would be required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of \$400 as well as a statement from the inventor.

CONCLUSION

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Extensions of time may be obtained under 37 CFR 1.136(a).

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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DOCKET NO.: 1768-139

THE PATENT OFFICE'S STAMP HEREIN IS ACKNOWLEDGMENT BY IT OF RECEIPT
ON THE DATE STAMPED OF

Second Transmittal under 35 USC 371, Decl & POA, IDS, Form 1449
and 4 references, Response to NOMR and 1.821(f) Statement, copy of
NOMR, Second Preliminary Amendment, Sequence Listing in paper and
computer readable form, Supplemental ADB

IN REGARD TO APPLICATION SERIAL NO.: 10/554,409

FILED: 10/24/05

BY: Grondlund et al.

TYPIST'S INITIALS: jmp

Attorney's Initials: BGE

DUE DATE:: 3/26/07



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**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371**

1768-139

U.S. Application No. (if known)

10/554,409

INTERNATIONAL APPLICATION NO.
PCT/IB2004/001583INTERNATIONAL FILING DATE
April 22, 2004PRIORITY DATE CLAIMED
April 24, 2003TITLE OF INVENTION
A Recombinant Allergen**COPY**APPLICANT(S) FOR DO/EO/US
Hans GRÖNLUND, Marianne VAN HAGE-HAMSTEN

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ has been communicated by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US)
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

ITEMS 11. TO 20. below concern other document(s) or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A preliminary amendment.
14. ☒ A Supplemental Application Data Sheet under 37 CFR 1.76.
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☒ A computer-readable form and paper copy of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821-1.825
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).

U.S. APPLICATION NO. (if known)
10/554,409

INTERNATIONAL APPLICATION NO.
PCT/IB04/001583

ATTORNEY DOCKET NO.
1768-139

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20. ☒ Other items or information:
 - Copy of Notification to File Missing Requirements
 - Response to Notification to File Missing Requirements and Statement Under 37 CFR §1.821(f)

21. The following fees are submitted:

CALCULATIONS

PTO USE ONLY

☐ Basic National Fee \$300.00

22. ☐ Examination Fee

If the written opinion prepared by ISA/US or the IPER prepared by IPEA/US indicates
 all claims satisfy provisions of PCT Article 33(1)-(4) \$0
 All other situations \$200.00

23. ☐ Search Fee

If the written opinion of the ISA/US or the IPER prepared by IPEA/US indicates all claims
 satisfy provisions of PCT Article 33(1)-(4) \$0
 Search fee (37 CFR 1.445(a)(2)) has been paid on the International application
 to the USPTO as an International Search Authority \$100.00
 International Search Report prepared by an ISA other than the US and provided to the Office
 or previously communicated to the US by the IB \$400.00
 All other situations \$500.00

TOTAL OF 21, 22 AND 23 =

\$

☐ Additional fee for specification and drawings filed in paper over 100
 (excluding sequence listing or computer program listing filed in an electronic medium).
 The fee is \$250.00 for each additional 50 sheets of paper or fraction thereof.

\$

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Rate
- 100 =	/ 50 =		x 250

\$

Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration later than
 30 months from the earliest claimed priority date (37 CFR 1.492(h)).

\$ 130.00

Claims	Number Filed	Number Extra	Rate
Total Claims	-20 =		X \$50.00
Independent Claims	3 =		X \$200.00
Multiple dependent claim(s) (if applicable)			+ \$360.00

\$

TOTAL OF ABOVE CALCULATIONS =

\$ 130.00

☒ Applicant claims small entity status. The fees indicated above are reduced by 1/2.

\$

SUBTOTAL =

\$ 65.00

Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed
 priority date (37 CFR 1.492(i)).

+

\$

TOTAL NATIONAL FEE =

\$ 65.00

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be
 accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property

+

\$

TOTAL FEES ENCLOSED =

\$ 65.00

Amount to be
refunded

\$

Amount to be
charged

\$

U.S. APPLICATION NO. (if known)
10/554,409

INTERNATIONAL APPLICATION NO.
PCT/IB04/001583

ATTORNEY DOCKET NO.
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- a. ☐ A check in the amount of \$ _____ to cover the above fees is enclosed.
- b. ☒ Please charge my Deposit Account No. 02-2135 in the amount of \$ 65.00 to cover the above fees.
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 02-2135. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Customer No. 06449

Barbara G. Ernst
Rothwell, Figg, Ernst & Manbeck
1425 K St., N.W.
Washington, D.C. 20005
Phone: 202/783-6040

Barbara G. Ernst
Signature

Barbara G. Ernst
Name

30,377
Registration Number

<p align="center">DECLARATION AND POWER OF ATTORNEY FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)</p> <p><input type="checkbox"/> Declaration Submitted with Initial Filing <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing</p>	Attorney Docket No.	1768-139
	First Named Inventor	Hans GRÖNLUND
	COMPLETE IF KNOWN	
	Application Number	
	Filing Date	
	Group Art Unit	
	Examiner Name	

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As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: A RECOMBINANT ALLERGEN the specification of which was filed on April 22, 2004 as PCT International Application Number PCT/IB2004/001583.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Numbers	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
0309345.7	GB	04/24/2003	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

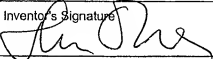
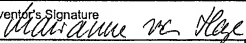
I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)

I or we hereby appoint the registered practitioner(s) associated with Customer No. 6449 to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. Direct all correspondence to Customer Number 6449.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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NAME OF SOLE OR FIRST INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any)) Hans		Family Name or Surname GRÖNLUND	
Inventor's Signature 		Date 15/12 2005	
Residence: City Lidngö	Country Sweden	Citizenship Sweden	
Mailing Address Parksätravägen 23			
Mailing Address			
City Lidngö	Postal Code S-181 61	Country Sweden	
NAME OF SECOND INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any)) Marianne		Family Name or Surname van HAGE HAMSTEN	
Inventor's Signature 		Date 15/12 2005	
Residence: City Bromma	Country Sweden	Citizenship Sweden	
Mailing Address Isakottavägen 26 Sobelgränd 11			
Mailing Address			
City Bromma	Postal Code S-161 71	Country Sweden	